

## CHAPTER 5

### COASTAL PROGRAM COORDINATION AND IMPLEMENTATION

Decisions of statewide significance will continue to be made by state agencies. The coastal policies and issues described in Chapter 3, which also cover the policy issues under the federal Coastal Zone Management Act, are contained in existing state laws and will continue to direct state agency actions in the coast. (See Chapter 8 for further discussion of uses of regional benefit.) While many state agencies have been operating within the coast, this program is the first to coordinate activities among agencies. This chapter describes the method by which the coastal program will be implemented and coordinated.

It should be noted that all private developers and public agencies proposing any activity in the New Hampshire coast are required to adhere to all applicable existing state laws. No state agencies are exempt from compliance with existing state coastal laws. For example, the Department of Public Works and Highways submits applications for shoreline activities to the Wetlands Board for approval, as does the State Port Authority for pier and land expansions into wetlands. Likewise, any state agency activity which affects water quality must receive permit approval from the Water Supply and Pollution Control Division under applicable state laws. Federal activities are also subject to these laws, as described further in Chapter 8, Part B.

#### Reliance on Existing State Laws

The New Hampshire coastal program is based on a series of existing state laws, and policies which provide effective state management and control of critical coastal resources which have a significant impact on coastal waters.

Sixteen state coastal policies, contained in Chapter 3, provide the framework for state and federal agency actions in the coast. The Coastal Program relies on 9 core state regulatory and management programs. These programs are briefly described below. The laws supporting these programs are also listed and represent some, but not all of the mechanisms (i.e. agency rules, memoranda of agreement) which make the policies in Chapter 3 enforceable. The enforceable laws listed in Chapter 3 and the Appendix to the DEIS are the basis for determinations of consistency in the Federal Consistency Review Process described in Chapter 8, Section B

RSA 483-A Under the Fill and Dredge in Wetlands Act, the Wetlands Board manages any activity within state coastal waters, submerged lands, fresh and tidal wetlands up to 3 1/2 feet above mean high tide. Jurisdiction includes all critical coastal resources: beaches and sand dunes, coastal waters and estuaries, rock shores, marine habitats, and tidal wetlands. Through the issuance of permits for dredging, filling, or erection of

structures, the Wetlands Board effectively protects coastal resources, restricts any non-coastal dependent activity over the water or wetlands, and manages the development impact on coastal waters from erosion and flooding. A 1985 amendment to this law prohibits any alteration to or operation of recreational vehicles on sand dunes. Also in 1985, the Board adopted a special chapter (Chapter 600) of regulations specifically dealing with coastal wetlands.

- RSA 146-A Under the Water Supply and Pollution Control laws, any activity in  
RSA 148 the coast which could have an adverse impact on state surface, RSA  
RSA 148-A ground or coastal waters is regulated. Erosion, sedimentation,  
RSA 149 and runoff in coastal waters are managed through permitting  
RSA 149-E procedures which protect water quality. Development adjacent to  
coastal waters is regulated through the issuance of permits for  
sewage disposal and water supply facilities. In addition, the  
Division of Forests and Lands, DRED, regulates (Part Res F 304,  
Timber Harvesting Rules) lumbering operations to protect  
surfacewater quality.
- RSA 206 The Fish and Game Department manages fish, shellfish, lobsters,  
RSA 207 crabs and other marine species through legislative actions, as  
RSA 211 well as rules adopted by the Department. The Department is  
RSA 214 responsible for protecting threatened and endangered species of  
the state.
- RSA 162-F Under the state Energy Facilities Siting Laws, the state has  
RSA 162-H direct control over the siting of energy facilities in the coast.
- RSA 12-A The Department of Resources and Economic Development manages the  
RSA 12-E state park system including coastal beaches, parks and parking  
Chapter 195 facilities and regulates mining activities.
- RSA 271 The state Port Authority regulates moorings, harbor masters, port  
RSA 271-A captains and pilots, vessel traffic, and manages the state port  
terminal.
- RSA 125-C Pursuant to this statute, the Division of Air Resources is  
responsible for the prevention and control of air pollution in the  
state.
- RSA 227-C The State Historic Preservation Office (SHPO), the state agency  
responsible for historic preservation in New Hampshire, reviews  
all state licensed and federally-assisted projects and activities  
for their potential effect on historic resources.
- RSA 230 The Department of Transportation is responsible for planning,  
programming and implementing all highway projects involving state  
and federal funds. However, consistent with policies designed to  
preserve and maintain the integrity of Great Bay, the Depart-  
ment's enabling legislation supports the maintenance, replacement  
and/or upgrading of existing coastal routes, in addition to  
improving access to public waters.

In addition to these core programs, there are over sixty state statutes which give nineteen state agencies planning, development, and regulatory authority within the coastal areas. Figure 5-1 summarizes the authorities and responsibilities of these state agencies, as they relate to the coastal program. All state agencies are responsible for taking actions consistent with existing state coastal policies contained in Chapter 3. This includes any planning, permitting, licensing, funding, acquisition, or other state agency activity undertaken in the coast. Figure 5-2 summarizes existing state statutes which are applicable in the seacoast.

#### Program Coordination and Conflict Resolution

The key to effective coastal management in New Hampshire is coordination between agencies responsible for managing resources and development in the coast through laws and programs discussed above and in Chapter 3.

The Coastal Program provides the state with the framework and resources necessary to resolve coastal issues which require interagency cooperation. Dredging and spoil disposal, fisheries habitat protection, port and harbor development, public access, and park development are just a few examples of complex coastal issues which involve action by more than one agency.

The primary means to coordinate and unify state agency activities in the coast is through the Office of State Planning (OSP) and the Council on Resources and Development. OSP is the designated lead agency for the New Hampshire coastal program. OSP has been responsible for preparing a Coastal Program based on existing laws and procedures. Because the program is based on laws and regulations distributed among several agencies, the basic role of OSP is to coordinate policy decisions and the implementation of the program with all federal, state and local agencies. Although the program relies on existing state authorities, voluntary local participation in the program has been encouraged by OSP.

OSP continues to receive and administer program funds under the CZM Act; to assist state and local agencies in developing fundable projects; to meet with the state and federal agencies to discuss coastal problems and negotiate solutions; to provide staff support to CORD on coastal planning and policy issues including recommendations for interagency conflict resolution; to coordinate and monitor implementations of existing state policies and program objectives through existing intergovernmental coordination procedures such as the Intergovernmental Review Process, the Administrative Procedures Act (RSA 541-A) and CORD; to implement Federal Consistency Review Process; to ensure national interest consideration and provide national interest information as needed; and to provide public and local participation in the coastal program.

The Council on Resources and Development (CORD), an interagency board created under RSA 162-C, is responsible for coordinating actions and resolving conflicts between state agencies and addressing resource management, growth and development issues. The duties of the council include consulting on common problems in the field of natural resources and their development; consulting and negotiating with any federal or state agency concerned with the council's problems, studies, or reports; conducting studies and recommending changes to effectively coordinate the work of member agencies (including the coastal policies); and resolving differences or conflicts concerning water

management or supply which result from the work of any agency represented on the council. Recommendations for effective coordination adopted by a majority of the council are binding on the affected agency. If investigation by the council indicates conflict between the laws and rules of member agencies, recommendations shall be submitted to Governor and Council or the General Court.

The council is comprised of 10 members, representing various agencies. It includes the Commissioner of the Department of Agriculture, the Commissioner of the Department of Education, the Director of Fish and Game Department, the Commissioner of the Department of Transportation, the Commissioner of the Department of Environmental Services, the Commissioner of the Department of Resources and Economic Development, the Commissioner of the Department of Safety, the Director of the Office of Emergency Management, and the Director of the Division of Public Health Services. The Director of the Office of State Planning serves as permanent chairman. Members serve ex-officio and any member's term of office terminates when that official ceases to be a member of the state agency they represent. The council meets at least quarterly, but customarily has maintained a bimonthly schedule of meetings. The chairman of the council may convene CORD as necessary, and must provide an agenda to each member at least 7 days prior to any meeting.

CORD serves as an effective vehicle for coordinating coastal management in New Hampshire. Over 50% of the land on the Atlantic coast is owned and managed by state agencies. Although state ownership is much less in the Great Bay area, all coastal resources and significant impacts are subject to state agency regulations. As the interagency council on coastal issues, CORD coordinates state agency actions in the seacoast and resolves where necessary, any conflicts between state agencies concerning coastal issues and policy disputes. Anytime a conflict arises which cannot be resolved informally through interagency coordination, the council may conduct a formal review of the issues. The conflict resolution mechanism will be employed, for example, where competing state policies are at issue, where agencies disagree on funding or enforcement of certain programs, or where actions by one agency impinge upon the statutory responsibilities of another agency. The general operating procedures of the Council on Resources and Development, under RSA 162-C, are provided in Appendix A, along with a resolution adopted by the Council in support of the New Hampshire Coastal Program.

The Council on Resources and Development can act on issues raised by its members or other agencies. For example, the council can review, at the request of the Port Authority or a member, the Port Authority's recreational boating study, port expansion plans or other port issues which affect the state, even though the Port Authority is not a member of the council. Coordination between state agencies in New Hampshire is also accomplished by the overlapping membership and state agency representation on the Council and other key state regulatory boards.

In the case of the Energy Siting Committees, eight of the twelve siting committee members also sit on the Council. All agencies represented on the Wetlands Board also serve on the Council. In these ways, the Council on Resources and Development can provide coordination and consistent state agency actions in addressing coastal issues affecting state agencies and the state's interest in the seacoast.

Changing the Coastal Program The last several years of coastal planning in new Hampshire have amply demonstrated the dynamic nature of the issues and opportunities that confront the limited coast. Beach access, siting of energy facilities, wetlands protection, and flood hazard management have been of major importance. Increased attention is being drawn to use of coastal areas for alternate energy sources and emphasis on the effective use of the state's only port and deepwater channel. Recommendations for changes in the program, as new issues evolve, may come from citizens, advisory committees, agencies and government officials, the legislature, or the governor. The federal Coastal Zone Management Act recognizes the importance of change and flexibility and provides mechanisms for refinement and amendments of approved coastal programs.

Any change to the coastal program will be submitted to OCRM for their review and approval before being incorporated into New Hampshire's coastal program. For example, significant changes to the laws, agency rules, or memoranda of agreement which form the basis for the Coastal Policies in Chapter 3, will be submitted to OCRM, as would new laws significantly effecting the coastal area. Consultation with federal agencies will be a continuing part of any proposal to amend or change the program. In addition, federal agencies would have the opportunity to review an Environmental Impact Statement if substantial changes are made to the coastal program.

The Office of State Planning has, as part of its ongoing agency responsibilities and budget, evaluated various methods to develop this program. A project which contributed significant background information for the Great Bay has been the development of a proposal for its designation as a National Estuarine Reserve. Focusing on Great and Little Bays, the tidal rivers, and the surrounding land areas, existing land uses in the estuary have been identified as well as current and potential development pressures and mechanisms that could be invoked to balance the stresses that might lead to degradation of the system. An estuarine reserve in any part of Great Bay would, if established, provide additional management capability in this area.

FIGURE 5-1

SUMMARY OF STATE AGENCIES AND AUTHORITIES

<u>KEY</u>	<u>AGENCY</u>
AC	Aeronautics Commission
AG	Attorney General
OEM	Office of Emergency Management
CORD	Council on Resources and Development
DA	Department of Agriculture Pesticides Control Board (PCB) State Conservation Committee (SCC)
DOT	Department of Transportation
SHPO	State Historic Preservation Office
DRED	Department of Resources and Economic Development
F&G	Fish and Game Department
G&C	Governor and Council
IDA	Industrial Development Authority
OSP	Office of State Planning
SPA	State Port Authority
PUC	Public Utilities Commission Energy Siting Committees
RWB	Right-of-Way Board
DES	Department of Environmental Services Water Resources Council (WRC) Water Supply and Pollution Control Division (WSPCD) Wetlands Board (WB) Office of Waste Management (OWM) Division of Air Resources (DAR)
PCB	Pesticide Control Board

FIGURE 5-1 (Continued)

Aeronautics Commission (AC) - established under RSA 422. The five member commission appointed by Governor and Council, is comprised of three members not directly connected with aviation and two who are directly connected with aviation. The Commission appoints a director who administers the provisions of the statute and all state laws relative to aeronautics.

The Commission provides planning and technical assistance to cities, towns, and others interested in establishing airports; encourages and supports the development and/or improvement of existing airports through planning and technical assistance as appropriate; assists in the improvement of airports in the National Airport System through requests for federal and state funds; encourages, supports, and regulates all aspects of air commerce through flight safety programs, improvements to airports and air navigation aids, airport inspection, and participation in proceedings before the Civil Aeronautics Board; and conducts investigations of aircraft accidents and of violations of aviation laws/regulations in liaison with federal authorities.

The Commission is also empowered, pursuant to RSA 422-B, to regulate the location, height and identification of structures and the use of land, as required, to maintain, in a reasonably unobstructed condition, the air traffic pattern area of any public airport in the state.

Attorney General (AG) - an Environmental Protection Division was established (RSA 7:18-a) in the Office of Attorney General with the following duties and functions: enforce statutes pertaining to environmental protection, control, and preservation; counsel state agencies and commissioners with responsibility over environmental concerns; exercise the common law powers of the Attorney General in protecting the environment; and bring public nuisance and other actions in superior court, in the name of the state, upon complaint by private citizens, when, in the opinion of the attorney general, the activity or activities complained of may have a substantial impact upon the environment of the state.

Cooperation from other state agencies in any investigation or prosecution is required under the statute whenever the environmental protection division deems it necessary.

The Attorney General must be notified of any petition to the public utilities commission for construction of pipelines or transmission facilities over, under, or across any public waters in the state.

The Environmental Protection Division serves as counsel for the public under provisions of both RSA 162-F and RSA 162-H, relating to rating and construction of power plants and energy facilities. The role of counsel is to represent the public interest in protecting the environment and assuring an adequate supply of electric power and energy.

Office of Emergency Management - The Office of Emergency Management, the director of which is appointed by the Governor, was created by RSA 107. It is the lead agency for the state's hazard mitigation program, flood insurance program, for disaster preparedness planning, and coordinates the response of state, local and federal agencies to disasters or emergency situations.



FIGURE 5-1 (Continued)

Council on Resources and Development (CORD) - established by RSA 162-C, is an interagency council composed of ten members: commissioner, Department of Agriculture; commissioner, Department of Education; director, Fish and Game Department; commissioner, Department of Transportation; commissioner, Department of Resources and Economic Development; commissioner, Department of Environmental Services; commissioner, Department of Safety; director, Office of Emergency Management; director, Division of Public Health Services; and director, Office of State Planning who serves as the Council's permanent chairman.

The duties of CORD include consulting on common problems in the field of natural resources and their development; consulting and negotiating with any federal or state agency concerned with the council's problems, studies, or reports; conducting studies and recommending changes to effectively coordinate the work of member agencies; and resolving differences or conflicts concerning water management or supply which result from the work of any agency represented on the council. Recommendations for effective coordination adopted by a majority of council are binding on the affected agency. If investigation by the council indicates conflict between the laws and rules of member agencies, recommendations shall be submitted to the Governor and Council or to the General Court.

Department of Agriculture (DA) - established by RSA 425, the Department is under the direction of a commissioner, who is appointed for a five-year term by the Governor and Council. The commissioner is advised by a ten member Agricultural Advisory Board, also appointed by the Governor and Council for five year terms.

The purpose of the Board is to safeguard public health and welfare and public assets in the soils, waters, forests, wildlife, and other natural resources of the state. The Pesticides Control Board is under the aegis of the Department of Agriculture.

State Conservation Committee (SCC) RSA 430-B - consists of nine members including the director of the cooperative extension service, director of the agricultural field station, commissioner of agriculture, commissioner of DRED, and five members representing the state's ten counties. The members are appointed for four year terms by Governor and Council. The SCC provides assistance to conservation districts within the state in the area of watershed planning and development, soil and water conservation problems, resource conservation and development, outdoor recreational development, and overall land use planning. The committee furnishes soil surveys for planning the best use of the land.

The SCC also appoints the supervisors of each of the 10 Conservation Districts created by RSA 430-B. These Districts, corresponding to each of the counties of the State, may:

1. Conduct and publish surveys, investigations and research (including recommended improvement measures) relating to the character of soil



FIGURE 5-1 (Continued)

erosion and flood water and sediment damages and land drainage and to the conservation and development of the soil, water and related natural resources;

2. Conduct demonstration projects;

3. Carry out preventative and control measures and works of improvement for the conservation and development of the soil, water and related natural resources;

4. Enter into agreements or furnish financial or other aid to land owners within the districts;

5. Obtain options or acquire by real or personal property, or interests therein, and to manage those properties;

6. Make available to the land owners of the districts, equipment, fertilizer, seeds, seedlings and such other material for conservation and development;

7. Construct structures necessary to carryout any of the authorized operations;

8. Develop comprehensive plans for changes in land use and the conservation and development of the soil, water and related natural resources;

9. Act as an agent of the United States or any State agency in the operation of conservation and development projects;

10. Collect fees for their services.

Department of Transportation (DOT) - reorganized by the Legislature in 1985 into the Department of Transportation, the Department is under the direction of a commissioner who is appointed for a five-year term by the Governor, with the advice and consent of the Council. The Department consists of divisions of engineering, business and administration, planning, public works, and transportation.

The primary responsibility of the Department is to construct, maintain, and operate the state's highways, toll-roads, and bridges and to assist the towns in their road and bridge programs.

The Department is operating under a Memorandum of Agreement with OSP on procedures for Federal Consistency Review through the Coastal Program. This MOA requires certification by the Department that any project in the Coastal Zone submitted through the Intergovernmental Review Process is consistent with the New Hampshire Coastal Program. Issuance of required state permits is congruous to consistency. Department activities in the Coastal Zone that do not require permits are not subject to consistency review.

FIGURE 5-1 (Continued)

Through issuance of permits based on established specifications, the department regulates location and design of driveways and approaches to highways under state jurisdiction, RSA 249:17. The department also regulates activities adjacent to state highways such as outdoor advertising, RSA 249-A, and junkyards, RSA 249-B.

RSA's 216-B and 216-C authorize the Department to administer the contracts and provide direction and supervision for construction projects undertaken in cooperation with the Corps of Engineers. These particular projects are directed toward improvement of the back channels of Portsmouth Harbor for boating, improvement of the entrance to Hampton Harbor, and a corrective project to restore damaged beach areas resulting from coastal erosion on Hampton Beach.

The Department is also responsible, under RSA 217, for recommending to the Governor and Council effective means of preventing erosion of the coastal shoreline of the state by waves and currents.

The Department also has jurisdiction in matters pertaining to rail property and mass transportation. Authority rests with the commissioner to acquire rail properties of any railroad within the state for continued operation in furtherance of the public interest, and to lease the properties for continued operation. The commissioner is empowered to study adequacy of public mass transportation within the state and take action to provide or improve facilities when feasible.

In addition, the commissioner serves on the following boards:

Council on Resources and Development, RSA 162-C;

Right-of-Way Board which makes recommendations to the Governor and Council concerning acquisition or retention of rights-of-way to any body of water having potential for recreational use, RSA 230; and

Wetlands Board which acts on applications to dredge, fill, or construct in, or adjacent to, any waters of the state, including tidal waters, RSA 483-A.

Department of Resources and Economic Development (DRED) - established by RSA 12-A, is under the direction of a commissioner and consists of (1) the Division of Forests and Lands, (2) the Division of Parks and Recreation, and (3) the Division of Economic Development, which includes subdivisions of development and promotion. The commissioner is advised by a commission consisting of eight members, seven appointed by Governor and Council, representing specified interests; the other is the commissioner of Public Works and Highways or his designated representative.

The department's primary responsibilities are planning, protection and management of the state's land and water resources including forests, parks, recreation areas, historic and cultural areas, soils and other natural resources; and the provision of policies, programs, and personnel in the field of economic development.

FIGURE 5-1 (Continued)

The parks and recreation division is charged with planning, development, maintenance, and operation of the state park system as well as beaches, parking facilities, state properties, and historical sites located in the coastal area, RSA 216. RSA 216-A vests DRED with responsibility for preparing plans to achieve an orderly and progressive expansion of the state park system, including historic, recreational, scenic, and scientific sites.

The Bureau of Marine Services, within the commissioner's office, is charged with operation of three state fish piers in coastal harbors. The forestry division is responsible for programs on forest fires, reforestation, disease control, state forests and nurseries, forest districts, and timber harvesting.

In addition, the department is represented on the following boards:

Council on Resources and Development - the commissioner of DRED serve on this Council, RSA 162-C;

Wetlands Board, RSA 483-A;

Port Authority - the commissioner is an ex-officio member, RSA 271-A;

Bulk Power Supply Site Evaluation Committee, RSA 162-F; and

Energy Facility Evaluation Committee, RSA 162-H.

State Historic Preservation Office (SHPO) - transferred from DRED in 1985 to the newly created Department of Libraries, Arts and Historical Resources, the SHPO is responsible (RSA 227-C) for historical, architectural and archaeological research and information programs. The Office is also responsible for nominations to the national register of historic places. The SHPO is operating under a Memorandum of Agreement with OSP concerning the review of significant activities within the Portsmouth Historic District (see Appendix).

Fish and Game Department (F&G) - established under RSA 206, is run by a commission consisting of eleven members representing the ten counties and one member who is a resident of one coastal municipality: Portsmouth, Seabrook, Rye, Hampton, North Hampton or New Castle. All members are appointed by Governor and Council for five years. The coastal commission member must have a general knowledge of all crustacean and bivalves in coastal waters and saltwater fishing in general. The commission appoints the executive director of the Fish and Game Department, who also serves a five year term. The executive director is charged with control of all departmental activities and makes and enforces all regulations necessary to manage fish and wildlife resources.

An Advisory Committee on Shore Fisheries, consisting of five members appointed by Governor and Council, recommends to the Fish and Game Commission programs and policies regarding shore fisheries.

FIGURE 5-1 (Continued)

The Department is charged with the protection, conservation, and restoration of fish and wildlife resources of the State. The division with most activities relative to the coastal area is the Division of Marine and Inland Fisheries. This division is responsible for the management and promotion of recreational and commercial marine fishing, including saltwater fish, lobsters, crabs, oysters, clams and clam worms and anadromous fish such as smelts, alewives, and salmon. Fish and Game manages marine resources through legislative actions and rules adopted by the Department which govern mesh sizes, type of gear and fishing methods, species size, and time of day or year for taking of species.

Fish and Game is responsible for the enforcement of the State's Endangered Species Conservation Act (RSA 212-A), as well as the issuance of permits for aquaculture, the assessment of damage to fish and other aquatic life or wildlife and/or their habits by the unlawful discharge of contaminants into inland or coastal waters, the regulation of hunting and trapping, and public education. Fish and Game conservation officers enforce all laws and regulations and make arrests for violation of fish and game laws. The Department administers parcels of state-owned land in the coastal area and throughout the state.

In addition, the executive director serves on the following boards:

Council on Resources and Development, RSA 162-C;

Right-of-Way Board, RSA 230;

Wetlands Board, RSA 483-A; and

Bulk Power Supply Site and Energy Facility Evaluation Committees, RSA 162-F and 162-H

Water Supply and Pollution Control Council, RSA 149

Governor and Council (G&C) - New Hampshire's unique system of shared authority was established by royal edict in 1680 and continued in the 1784 Constitution. The Executive Council, five members elected from each of five geographic council districts, and the Governor have veto authority over one another's decisions primarily in regard to appointments and approval of contracts. The Council confirms the appointment of a coordinator for federal funds and must approve application by the executive branch for the use of federal funds.

Under RSA's 216-B and 216-C, the Governor and Council have responsibility for cooperating with the U.S. Army Corps of Engineers in projects to improve navigation and correct beach erosion in the Hampton harbor channel and the back channels in Portsmouth. RSA 217 requires an annual report from the Department of Public Works and Highways to the Governor and Council outlining recommendations on effective means of preventing erosion of the shores of the coastal waters by waves and currents.

The authority for the State to be involved in acquiring access points to public water is in place. Laying out of highways by the Department of

FIGURE 5-1 (Continued)

Transportation to public waters is authorized by RSA 230:63 and initiated by Governor and Council. By this statute the State may determine the need for acquiring public access to public waters and constructing access roads or paths to the water. Titles to the sites remain with the State, but management and upkeep of the facility is turned over to the municipality.

The Governor, under RSA 9, is responsible for formulating and submitting the biennial state budget to the legislature.

Industrial Development Authority (IDA) - created by RSA 162-A is an agency of the state and is a body corporate and politic. The Corporation is managed by a nine member board of directors who are appointed by Governor and Council for three year terms. The Authority acts to encourage orderly economic development by providing financial backing of industrial and recreational construction, the acquisition and expansion of such facilities and support for local development corporations in the acquisition of land for industrial parks.

The Authority may guarantee first mortgage loans made by banks to eligible manufacturing and recreational industries in New Hampshire. This legally permits the banks to provide 100% financing to companies because up to one-half of the loan may be guaranteed. In addition, the Authority may issue tax-exempt industrial revenue bonds to credit-worthy companies of up to \$5 million to provide 100% of cost of acquisition, and/or construction and equipping of facilities to be used for manufacturing, warehousing, research and development and corporate headquarters. Industrial development pollution control bonds can also be issued, with no dollar limitation, for pollution control facilities.

Office of State Planning (OSP) - established by RSA 12 and transferred to the Executive Department by RSA 4:12-d, administers and supervises divisions of state and regional planning and the office of economic development. The director, appointed by the Governor, serves as liaison between the Executive Department and various regional and federal organizations and agencies.

The agency reviews, inventories, classifies, and analyzes all functional planning programs carried out by state agencies, conducts research for statewide land use planning including housing, economic development, and water resources; develops physical and socioeconomic data inventories and analysis; and is responsible for coordination and provision of technical assistance to New Hampshire's regional planning commissions, counties, and municipalities.

Office of State Planning serves as the coordination agency for coastal zone management; state and Federal Consistency Review process; houses the Coordination of Federal Funds and the Intergovernmental Review Process; conducts the state Outdoor Recreation Planning (SCORP) function for the Department of Resources and Economic Development (RSA 12-A:18), under a memorandum of Agreement; and reviews the Biennial State Capital Budget for consistency with state policies.

FIGURE 5-1 (Continued)

The director of the Office of State Planning acts as chairman of CORD, RSA 162-C, and serves on the following boards:

Bulk Power Supply and Energy Facility Evaluation Committees, RSA 162-F and 162-H;

Wetlands Board, RSA 483-A; and

Water Supply and Pollution Control Division, RSA 149.

State Port Authority (SPA) - established under RSA 271-A, consists of eight members, appointed by Governor and Council and two ex-officio: the commissioner of the Department of Resources and Economic Development (DRED) and the mayor of the City of Portsmouth. A full-time director carries out the administrative activities of the Port Authority. The Authority, in cooperation with DRED, has a broad mandate to plan, develop, maintain, and use the state's ports, harbors, and navigable tidal waters, including air navigation and land transportation facilities within a 15 mile radius of headquarters in Portsmouth. Its jurisdiction covers such diverse activities as commercial fishing and shipping, recreational boating, and the development of saltwater fisheries. The Port Authority is authorized to conduct business transactions that promote commercial shipping; contract with a port terminal operator to handle cargo and business transacted through the state pier and facilities in Portsmouth; appoint pilots and harbor masters; establish a foreign trade zone and free port areas; and acquire land for port operations. Through adopted rules and regulations the Authority governs port captains, pilots and pilotage, harbor masters and harbors, moorings, vessel traffic, and coastal navigational safety requirements.

Under RSA 107:8-a, the Port Authority is responsible for initiating measures to prevent and protect against contamination of the seacoast area by oil or other matter discharged from seagoing vessels recognizing that, under RSA 149, the Water Supply and Pollution Control Division has primary jurisdiction in regard to protection of water quality.

Public Utilities Commission (PUC) - established under RSA 363, consists of three members appointed by Governor and Council for 6 year terms. One member is designated chairman by Governor and Council.

The Commission is charged with carrying out public utilities laws under Title XXXIV, RSA's 362-382. This involves the general supervision of all public utilities and the plants owned, operated, or controlled by these utilities. The Commission is concerned with maintaining adequate service to the public and maintaining the financial stability of the utilities and has the authority to condemn land and exempt utilities from local zoning if necessary for the public welfare. The Electric Power Plant, Transmission Sitings and Construction Procedure, RSA 162-F, requires the PUC to develop guidelines for the preparation of long range plans for the general location, size, and type of all bulk power facilities to be owned or operated over the next 10 years. The Chairman of the PUC services on both the Bulk Power Supply Site Evaluation Committee, RSA 162-F, and the Energy Facility Evaluation Committee, RSA 162-H.



FIGURE 5-1 (Continued)

Energy Siting Committees - State law establishes two siting committees to evaluate energy facilities. These committees -- the Bulk Power Supply Facility Site Evaluation Committee, RSA 162-F and the Energy Facility Site Evaluation Committee, RSA 162-H, -- are composed of the same members: the executive director and the chief aquatic biologist of the Water Supply and Pollution Control Division (WSPCD); the commissioner of the Department of Resources and Economic Development (DRED), and within DRED, the directors of the Division of Parks and the Division of Forests and Lands; the director of Fish and Game Department (F&G); the director of the Office of State Planning (OSP); the chairman of the Water Resources Board; the director of the Radiation Control Commission; the director of the Air Resources Agency, the commissioner of Health and Welfare; and the chairman and the chief engineer of the Public Utilities Commission. The executive director of the WSPCD serves as chairman.

The purpose of these committees is to represent the state in the selection and utilization of sites for energy facilities by issuing permits for facility construction and operation. The committees represent a one-stop permit procedure where one application is submitted to cover all the permits required by state agencies. All state agency permits must be issued or disapproved within 7 months. The committees have 14 months to issue a permit for energy facilities except for an electrical generating facility where 16 months are allowed. The committee cannot approve an energy facility if all other permits are not granted.

Right-of-Way Board (RWB) - established under RSA 230, investigates any transaction by state agencies or departments involving acquisition or disposal of land or easements which lead to or is adjacent to a body of water with potential for recreational use. The board makes recommendations for acquisition or retention of any suitable rights-of-way for action by the Governor and Council. The Board consists of the director of the Division of Parks (DRED), director of Fish and Game Department, chairman of the Water Resources Board, and the commissioner of Public Works and Highways or their designees.

Water Resources Council (WRC) - established under RSA 481, and within the Department of Environmental Services, is a five member council all of whom are appointed by the Governor and Executive Council. Only the chairman is a full-time salaried employee. The council is involved in a broad spectrum of water resource activities, including the construction, operation, and maintenance of dams, reservoirs and other water projects for distribution and utilization, and the establishment and maintenance of stream flow gauging stations to provide data for water supply planning. Under three session laws, the Water Resources Council also has water resource responsibilities. Chapter 256 of the laws of 1975 directs the Council to coordinate efforts towards solving the water supply problems of the Seacoast area, giving them the specific task of updating a water supply study of southeastern New Hampshire. This request, in conjunction with other state agencies, resulted in the 1976 Southeast New Hampshire Water Supply and the Southeast New Hampshire Water Resources Study now underway by the Corps of Engineers.



FIGURE 5-1 (Continued)

Chapter 332 of the Law of 1965 gives the towns of Durham, Epping, Lee, Newmarket, and Raymond exclusive rights to the Lamprey River and its tributaries for public water supply purposes. The Water Resources Council is charged with enforcing the provisions of the law.

Chapter 376 of the Laws of 1955 is the source of authority for the Board's involvement in groundwater investigations. The law authorizes and directs the Council to conduct surveys and investigations of the state's groundwater resources, and to enter into agreements with the U.S. Geological Survey to help in carrying out these duties. The groundwater availability maps that have been prepared for the state's major river basins by the U.S. Geological Survey's Water Resources Division are a cooperative arrangement with the Water Resources Board. These maps are the most comprehensive groundwater mapping effort done on a statewide basis, and are a valuable tool in water supply planning.

Recent legislation appropriated \$5,000,000 for participation in a seismic groundwater mapping project to be conducted by the U.S. Geological Survey in Cooperation with the New Hampshire Water Resources Council.

Members of the Water Resources Council serve on the Wetlands Board, RSA 482-A.

The Chairman of the Water Resources Council serves on the right-of-way board, RSA 258-B.

Water Supply and Pollution Control Division (WSPCD) - under RSA 149, and within the Department of Environmental Services, is the agency with primary responsibility for the administration and enforcement of laws relating to water supply, water pollution and water quality standards for surface and ground waters in the state.

The Water Supply and Pollution Control Council consists of 13 members appointed by the Governor with the consent of the Executive Council. The appointees are the chairman; a vice-chairman who represents the public; five members- at-large, representing industrial, recreational, agricultural and municipal water supply interests; and officials from state agencies concerned with public health, fish and game, parks, planning, water resources, and public safety.

Authorities and responsibilities of the Council include:

- review and approval of plans for new or modified water supply systems;

- review and approval for any proposed installation or improvement of a public sewage treatment facility and may require that a municipality construct public sewers if existing facilities do not adequately protect public health or prevent pollution of surface waters;

- protect and maintain the quality of state waters, based on a classification system, by means of a permit system for discharge of any sewage or waste into surface or groundwaters;

FIGURE 5-1 (Continued)

review and approval of any plans for subdivision of land or construction of on-site waste disposal system on any lot or subdivision, based on minimum lot sizes and characteristics;

review and approval of any proposal to dredge, excavate, place fill, or undertake construction in or near surface waters or any proposal that might significantly alter the terrain so as to redirect or create new run-off; and

jurisdiction over cleanup operations whenever an oil discharge or spillage has or will pollute the public waters.

Other responsibilities of WSPCD include:

long range planning for sources of water where increased industrial and population growth is anticipated; approval of public highway or access road construction across any watershed or reservoir used for storage of public drinking water; adoption and enforcement of plumbing rules and regulations for all areas having a public water supply; issuance of licenses for operation of camps designed for vacation or recreational uses; and permit authority over any artificial swimming pool or bathing place open to the public and operated as a business venture.

In addition, WSPCD is represented on the following boards with jurisdiction in the coastal area:

The executive director and the chief aquatic biologist serve on the bulk power supply facility site evaluation committee and the energy facility evaluation committee, RSA's 162-F and 162-H. The director is chairman of both of these committees;

The executive director and the chief aquatic biologist serve on the Wetlands Board, RSA 483-A.

Wetlands Board (WB) - established under RSA 483-A, and within the Department of Environmental Services, consists of eleven members: one each from Fish and Game, Water Supply and Pollution Control Division, Public Safety, Public Works and Highways, Resources and Economic Development, and State Planning; two members of the Water Resources Board, and three gubernatorial appointments: one from a municipal conservation commission, an elected municipal official, and a representative from a conservation district. The Wetlands Board is charged with regulating any excavation or dredge and fill of any area adjacent to, or in, state waters, which are defined to include tidal wetlands and the sand dunes remaining in Seabrook. The Board has rule making authority and regulations to guide permit procedures and decisions.

Office of Waste Management (OWM) - established under RSA 147-A is within the Department of Environmental Services. Within the office are the divisions of solid waste and hazardous waste. The office has primary responsibility for solid waste under RSA 149-M and hazardous waste under RSA 147-A.

FIGURE 5-1 (Continued)

The office regulates all solid and hazardous waste facilities. The office is responsible for developing and implementing both solid and hazardous waste programs for the entire State.

Division of Air Resources (DAR) - established under RSA 125-C is within the Department of Environmental Services. The DAR has responsibility to adopt, amend, or repeal rules for the prevention, control, and abatement of air pollution. The Division of Air Resources is responsible for implementing and enforcing the statutes and all rules and regulations adopted by the division director. The Air Resources Council, established under RSA 21-0:11, consults with and advises the director with respect to the policies, programs, goals and operations of the division. The Council is composed of 9 members, representing the steam power generating industry; the fuels industry; manufacturing; municipal government; and five who represent the public interest, one of whom is a licensed practicing physician and one who represents the field of recreation. All members are appointed by Governor and Executive Council for four year terms.

A statewide permit system for construction and operation of new stationary sources of air pollution ensures that the ambient air pollution level is not exceeded. The basis for the air pollution control program is the State Implementation Plan (SIP), which is a federally approved document describing how the state will meet federal air quality standards.

The director of the Division of Air Resources serves on both the bulk power supply site evaluation committee (RSA 162-F) and the energy facility evaluation committee (RSA 162-H). These committees issue permits for the siting and operation of electrical generating facilities and other energy facilities.

Pesticide Control Board (PCB) - established under RSA 430:30 has jurisdiction over any application of pesticides, herbicides, etc. The board's purpose is to protect the public health and waters of the state. The board consists of 11 members appointed by the Governor with the consent of the Council. The membership includes the Commissioner of Agriculture, a representative of the Division of Public Health Services, a representative of DRED or the Department of Fish and Game, a representative of WSPCD, the State Entomologist, a licensed physician, a person possessing an advanced degree in one of the biological sciences, a licensed pesticide applicator, a representative of the New Hampshire Horticultural Society, and two members of the general public.

FIGURE 5-2

SUMMARY OF STATE STATUTES

This figure summarizes all state statutes that comprise the New Hampshire Coastal Program: the coordinating agencies, the key regulatory agencies and programs, and other management agencies. Federal activities will also be subject to these laws, as described further in Chapter 8, beginning on page 8-7. Copies of these laws and rules can be found in the Appendices (separate volume).

AGENCY OR PROGRAM DESCRIPTION

AUTHORIZING  
STATUTES

A. COORDINATING AGENCIES

1. The Council on Resources and Development is an interagency board responsible for coordinating actions and resolving conflicts between state agencies in addressing resource management, growth and development issues. The Council is authorized to consult on common problems in the field of natural resources and their development; consult and negotiate with any federal or state agency concerned with the council's problems, studies, or reports; conduct studies and recommend changes to effectively coordinate the work of member agencies; and resolve differences or conflicts concerning water management or supply which result from the work of any agency represented on the council. The eleven members of the council represent various resource related state agencies. Recommendations for effective coordination adopted by a majority of the council are binding on the affected agency.

RSA 162-C

2. The Office of State Planning is responsible for developing a "plan for the orderly development of the resources of the state." Office of State Planning serves as the coordination agency for coastal zone management, including the Outer Continental Shelf participation; state and federal consistency review processes; houses the Coordinator of Federal Funds and the Intergovernmental Review Process; conducts the state Outdoor Recreation Planning (SCORP) function for the Department of Resources and Economic Development (RSA 12- A:18), under a memorandum of Agreement; and reviews the Biennial State Capital Budget for consistency with state policies.

RSA 4  
9-A

FIGURE 5-2 (Continued)

AGENCY OR PROGRAM DESCRIPTION	AUTHORIZING STATUTES
<b>B. KEY REGULATORY AGENCIES AND PROGRAMS</b>	
<p>1. Fill and Dredge in Wetlands Act authorizes the Wetlands Board to manage any activity within state coastal waters, submerged lands, fresh and tidal wetlands up to 3 1/2 feet above mean high tide. Jurisdiction includes all critical coastal resource areas: beaches and sand dunes, coastal waters and estuaries, rocky shores, marine habitats, and tidal wetlands. Permit approval is required for any activity: dredging, filling, or erection of structures. Non-coastal dependent activities over wetlands or water are prohibited. Regulations adopted by the Board contain additional management criteria for identifying wetlands and permitting activities. Chapter 600 of the regulations, adopted in 1985 deals specifically with coastal wetlands.</p>	<p>RSA 483-A and Administrative Rules</p>
<p>2. The Division of Water Supply and Pollution Control, within the Department of Environmental Services, has the authority to manage any activity in the coast which could have an adverse impact on state surface ground or coastal waters. Erosion, sedimentation, and runoff in coastal waters is managed and water quality protected through the issuance of permits. Development adjacent to coastal waters is regulated through the issuance of permits for water supply and sewage disposal facilities including sewer lines, treatment facilities, connections to public sewer, on-site disposal and subdivisions on septic systems.</p>	<p>RSA 146-A 148 148-B 149 149-E  Memorandum of Agreement</p>
<p>3. The Fish and Game Department manages fish, shellfish, lobster, crab and other marine species through licensing procedures, legislative actions, and rules adopted by the Department which govern mesh sizes, type of gear, fishing methods, species size and time of day or year for taking of species. The Division of Marine and Inland Fisheries is responsible for the management and promotion of recreational and commercial marine fishing. The Department is responsible for protection of endangered species, as well as aquaculture permits and for assessing damages to fish, aquatic life, wildlife and habitats resulting from unlawful discharge of contaminants into waters. Several state owned land parcels are administered by the Department. The Department regulates hunting and trapping.</p>	<p>RSA 206 207 211 214   RSA 212-A</p>

FIGURE 5-2 (Continued)

AGENCY OR PROGRAM DESCRIPTION	AUTHORIZING STATUTES
<p>4. The Department of Resources and Economic Development is established and charged with the responsibilities of planning, protection and management of the state's land and water resources including forests, parks, recreation areas, mining activities, soils and other natural resources; and the provision of policies, programs and personnel in the field of economic development. Management of the state park system including coastal beaches and parks, parking facilities, state properties and historic sites is the responsibility of the parks division and the Department is charged with planning for the orderly expansion of the state park system. Together with state fish piers, state properties cover 78% of the Atlantic shoreline. Within DRED, the Bureau of Marine Services operates three state fish piers in coastal harbors. In addition, the Department is responsible for maintenance dredging activities in Hampton Harbor and the Back Channel areas of Portsmouth Harbor. Regulations also enable the Department to manage slash lumber as a means to conserve the quality of surface water.</p>	<p>RSA 12-E 216-A and Administrative Rules  Chapter 195 (Laws of 1986)</p>
<p>5. The State Port Authority is established with a broad mandate to plan, develop, maintain and use, in cooperation with DRED, the state's ports, harbors and navigable tidal waters. Commercial fishing and shipping, recreational boating, and the development of saltwater fishing are within its jurisdiction. Through adopted rules and regulations the Authority governs port captains, pilots and pilotage, harbor masters and harbors, moorings, vessel traffic, and coastal navigational safety requirements. It is authorized to acquire land for port operations and to establish a Foreign Trade Zone and free port areas.</p>	<p>RSA 271 271-A and Administrative Rules</p>
<p>6. Energy Facilities Siting Laws establish three Energy Facilities Siting Committees which have direct control in the siting of energy facilities by issuing permits for facility construction and operation. The Committees, with representatives from various state agencies, constitute a one-stop permit procedure for state energy facility permits.</p>	<p>RSA 162-F 162-H</p>
<p>7. The State Historic Preservation Office within the Department of Libraries, Arts and Historical Resources reviews all federal and state activities to protect historic resources. Further, the Council on Resources and Development is the adjudicating body for resolving historic related issues between state agencies.</p>	<p>RSA 227-C and Administrative Rules Memorandum of Agreement</p>

FIGURE 5-2 (Continued)

AGENCY OR PROGRAM DESCRIPTION	AUTHORIZING STATUTES
8. The Division of Air Resources is responsible for the operation, control and abatement of air pollution; permits for the construction and operation of new stationary sources of air pollution.	RSA 125-C
9. The Department of Public Works and Highways regulates and issues permits for location and design of driveways and approaches to state highways and railroads. It regulates activities adjacent to state highways such as outdoor advertising and junk-yards, including sanitary landfills. The Department also cooperates with the Corps of Engineers in undertaking corrective projects for coastal erosion.	RSA 230 Memorandum of Agreement
10. The Division of Public Health Services is generally charged with protecting the public health, including effects from environmental factors and toxic substances.	RSA 125
C. <u>OTHER MANAGEMENT AGENCIES</u>	
1. The Aeronautics Commission regulates all aspects of air commerce; provides planning and technical assistance in the development of airports; and is empowered to regulate the location, height and identification of structures and the use of the land to maintain an unobstructed air traffic pattern within public airport areas.	
2. The Governor and Executive Council must approve the laying out of highways to any public water and requires an annual report from the DOT recommending effective means of preventing erosion. The Governor formulates and submits to the legislature the biennial state budget.	
3. The Public Utilities Commission is responsible for developing long-range plans for the general location, type and size of all bulk power facilities over a ten year period and has the authority to condemn land and exempt utilities from local zoning if necessary for public welfare.	
4. The Right-of-Way Board makes recommendations to the Governor and Council for the acquisition or retention of rights-of-way to water bodies with potential recreational use.	



FIGURE 5-2 (Continued)

AGENCY OR PROGRAM DESCRIPTION

5. The Division of Water Resources has regulatory authority over the construction and operation of dams, reservoirs and other water projects for distribution and utilization. The Council is authorized to coordinate efforts toward solving the water supply problems of the seacoast and conducting groundwater surveys.

6. The Civil Defense Agency is the lead agency for the states' hazard mitigation program and coordinates emergency response in disaster situations.